

Remarks

Reconsideration and allowance in view of the foregoing amendments and the following remarks are respectfully requested.

Claims 1-5 have been canceled and claims 6-7 have been amended. Claims 6-10 are pending in this application.

The specification stands objected to as failing to provide proper antecedent basis for the claimed subject matter. In response, Applicant has amended claim 7 accordingly. It is submitted that the specification is now proper.

Claims 6-10 stand rejected under 35 U.S.C. §112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which Applicant regards as the invention. In view of the Examiner's kind comments, Applicant has amended claims 6 and 7 to make them clear and definite. Applicant submits that claims 6-10 are now in full compliance with 35 U.S.C. §112, second paragraph.

Claims 6 and 8-10 stand rejected under 35 U.S.C. §103(a) as being unpatentable over Ito et al. in view of Applicant's admitted prior art (AAPA). Applicant traverses the rejection for the following reasons.

Ito et al. fails to disclose or suggest a step of forming a reaction prevention layer on a silicon layer, wherein the reaction prevention layer contains nitrogen and silicon and has a surface density of nitrogen above about  $1 \times 10^{15}/\text{cm}^2$ , and a step of performing a selective oxidation process oxidizing

selectively the silicon layer from the stack gate electrode, as recited in claim 6, as amended.

In the Office Action, the Examiner stated that "a reaction prevention layer of silicon nitride having a thickness of 2 nm would inherently have a surface density of nitrogen above about  $1 \times 10^{15}/\text{cm}^2$ ". The Examiner is invited to explain why this is inherent. Applicant submits that the Examiner is making an unsupported allegation and in doing so appears to be relying on personal knowledge. Unless the Examiner can provide support for such an allegation by reference to a publication or the like, the Examiner is requested to present an affidavit in accordance with 37 CFR 1.104(d)(2).

Further, Ito et al. fails to disclose or suggest the step of performing. As shown in fig. 4(d) of the claimed invention, a selective oxidation process oxidizing selectively the silicon layer to form a silicon oxide layer 28 is performed. In contrast, as shown in fig. 4 of Ito et al., no selective oxidation process is performed. Accordingly, it is clear that Ito et al. has failed to disclose or teach this step.

Therefore, it is respectfully submitted that claim 6 and its dependent claims 8-10 are not made obvious over Ito et al. in view of AAPA under 35 U.S.C. §103(a).

Claim 7 stands rejected under 35 U.S.C. §103(a) as being unpatentable over Ito et al. and the AAPA, and further in view of Chen et al. Applicant submits that Chen et al. does not supply the above-noted deficiencies of Ito et al. and AAPA.

Therefore, claim 7, which is dependent on claim 6, is patentable for the reasons discussed above with respect to claim 6, as well as on its own merits.

The prior art made of record and not relied upon is noted.

All objections and rejections having been addressed, it is respectfully submitted that claims 6-10 are now in condition for allowance and a notice to that effect is earnestly solicited. If any issues remain to be resolved, the Examiner is cordially invited to telephone the undersigned attorney at the number listed below.

Respectfully submitted,

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